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Email: Emily_gait@ctd.uscourts.gov

November 9, 2020

Dear Judge Shea:

This letter is in response to the defendant's November 6, 2020 letter concerning three outstanding discovery disputes. The defendant's letter is inaccurate and misleading.

First, nothing prevented Mr. Pitblado from asking Danilo about the surveillance. I objected to questions beyond the scope of the Court's Order, but I allowed the questioning after preserving my objection, and never once instructed the witness not to answer questions about the videos. The record makes this clear.

"[Mr. Ponvert:] So, for the record, I will reiterate my objection to moving beyond the topics discussed by the judge at the May 20, 2020, hearing. Specifically, I'll quote from page 35 where the judge says, quote, 'All right. I'll let you continue the deposition but only for those topics.' Those topics being the immigration document about mental or physical disorders, his trip to Venezuela and Danilo's employment. So I'll object a lot if we get beyond those topics, to preserve that." Danilo Bracho Sept. 22, 2020 Deposition at 11.

The defendant's counsel simply chose, for whatever strategic reason, not to ask Danilo about the surveillance. Having made that choice, and having preserved only the single question about what the witness reviewed at my request, Mr. Pitblado adjourned the deposition. He should not be allowed to re-open it for a third day because he now has a different strategy.

Second, the defendant's counsel asked David Bracho dozens of questions about his company, Bancasa AG, even though many of the questions could not possibly lead to the discovery of admissible evidence. Mr. Pitblado claims to want to find out whether Danilo has the funds necessary to apply for an EB-5 investor visa. That is a relevant question, but *he never asked it to Danilo even though it is Danilo who will be applying for the visa*. Instead, counsel adjourned Danilo's deposition without exploring that topic at all, and then asked Danilo's brother about a host of companies and allegations of criminality in Venezuela. This expedition is beyond the scope of the claims and defenses in this case, is based on a fraudulent Venezuelan document created for the purpose of bribing foreign companies, and is more prejudicial than probative. But even if the questions were relevant and proper, the Court should not re-open the witness's deposition for a third day so the defendant can find out information it should have explored with the proper witnesses long before the close of discovery.

Third, the defendant's counsel has known about Dr. Jupiter and about the surveillance video for more than a year. He chose not to depose the doctor on time, and now wants to force a third-party treating physician to give testimony that could and should have been taken within the Court's Scheduling Order. That request must be denied.

Respectfully submitted,

Antonio Ponvert III

APIII:sc cc: John Pitblado, Esq.